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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,274	12/21/2000	Thomas Eckel	MO-6064/LEA	9985

7590 08/16/2002

Bayer Corporation
100 Bayer Road
Pittsburgh, PA 15205-9741

EXAMINER

RAJGURU, UMAKANT K

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 08/16/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on Mar 22, 2002 (paper no 5)
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-8, 12 & 13 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-8, 12 & 13 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

1. An amendment (paper no. 5) has been filed on March. 22, 2002.

2. Claims under examination are 1-8, 12 and 13.

3. Rejection of claims 1, 6 and 7 under 35 USC 112, second paragraph (see item 3 of prior Office action) is withdrawn.

Also withdrawn is the rejection of claims 1-8 and 12 (claim 12 was inadvertently omitted) under 35 USC 103 (item 5 of same office action).

4. Claims 1-8, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maruyama et al (EP 728811)..

MR ~~Maruyama~~ ^{Maruyama} discloses a composition comprising (A) an aromatic polycarbonate (B) a graft copolymer prepared by graft polymerizing an aromatic vinyl monomer and another monomer in presence of a rubbery polymer © a copolymer of aromatic vinyl monomer and another monomer and (D) a phosphazene (abstract). Some additives can be included in the composition (p. 5, lines 17-19).

Polycarbonate is used at 40-90 parts by wt, graft copolymer is at 1-60 parts by wt and phosphazene is used at 1-30 parts by wt. The graft copolymer (B) is prepared from styrene, methyl methacrylate, acrylonitrile and butadiene. It reads on component (B) of instant claim 1. Though patentee does not specifically mention the glass transition temp of diene rubber, it is apparent that the disclosed rubber of patentee (being same as the claimed one) satisfied this (claimed) limitation.

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Graft copolymer is prepared by solution polymerization, suspension polymerization or bulk polymerization (p. 3 lines 40-45). Phosphazene formulae I and II (p. 4 lines 25-40) read on the instantly claimed ones.

It would therefore have been obvious to follow teachings of Maruyama and arrive at instant invention.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Maruyama et al (EP 728811).

*withdrawn
jan 24, 2003*

Disclosure of Maruyama presented earlier shows that claims 1-8, and 12 and 13 lack novelty.

7. On page 7 (of paper no. 5) the applicants' argument that "Maruyama does not prefer other methods of polymerization over emulsion polymerization" is true but not conducive to establish nonobviousness of instant invention because it obvious to one of ordinary skill to choose methods of polymerization other than emulsion polymerization. The improved results that the applicants point out need not be considered since instant claims do not encompass any of them.

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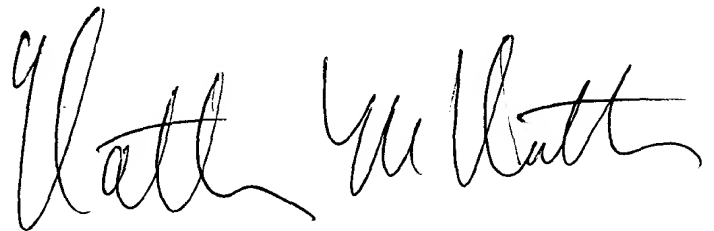
8 . . Any inquiry concerning this communication or earlier communications from the examiner should be directed to U.K. Rajguru whose telephone number is 703-308-3224. The examiner can normally be reached on Monday-Friday from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is 872-9310/9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


U.K. Rajguru:evh

8/8/02



NATHAN M. NUTTER
PRIMARY EXAMINER
GROUP 1000 0711